

# Penticton Indian Band Animal Control By-law

By-law No. 2007 - 03



passed by

Penticton Indian Band Council

20 March 2007

## **Penticton Indian Band Animal Control By-law**

**Being a By-law Respecting the Care and  
Control of Animals on the Reserve.**

or

**By-law Number 2007 - 03**

**Enacted on the 20th day of March, 2007**

**WHEREAS** section 81, paragraph (a), (d), (e), (q) and (r), of the *Indian Act* empower the Council of an Indian Band to pass by-laws to provide for the health of residents on the reserve, the prevention of nuisances, the protection against and the prevention of trespass by domestic animals, in addition to, matters arising out of or ancillary to the exercise of powers under this section, and the imposition of a penalty for the violation of any such by-law;

**AND WHEREAS** the Council of the Penticton Indian Band is of the opinion that the uncontrolled ownership, breeding, and running at large of animals may be detrimental to the health of the residents on the reserve, and a nuisance to such residents;

**AND WHEREAS** the Council of the Penticton Indian Band enacted **By-law Number 2007 – 03 on the 20th day of March, 2007.**

**THEREFORE**, the Council of the Penticton Indian Band enacts this Animal Control By-law, Number 2007 – 03, as follows:

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**THEREFORE**, the Council of the Penticton Indian Band enacts this Animal Control By-law, Number 2007 – 01, as follows:

**PART 1 - GENERAL**

***SHORT TITLE***

1. This by-law may be cited as the "Penticton Reserve Animal Control By-law".

***INTERPRETATION***

2. In this by-law

"*animal*" means a dog, a cat, or any other domestic animal;

"*animal control officer*" means an animal control officer, appointed pursuant to section 3, or any by-law enforcement officer, including a police officer or a person employed by the band council for the purpose of enforcing the provisions of this by-law.

"*animal register*" means the register kept by the animal control officer for the purpose of the registration of all dogs and other animals on the reserve.

"*band*" means the Penticton Indian Band, as defined by Section 2 of the *Indian Act*;

"*cat*" means any cat, male or female;

"*council*" means the Council of the Penticton Indian Band, as defined in the *Indian Act*;

"*dog*" means any dog, male or female and includes an animal that is a cross between a dog and a wolf;

"*dwelling*" means each single unit home being a fully or semi-detached building, a multiple unit dwelling, an apartment home or any building used or intended to be used for human habitation and in which normal domestic functions may be carried on.

"*medical officer of health*" means the medical officer of health so appointed by band council resolution;

"*muzzle*" means to secure a dog's mouth in such a fashion that it cannot bite anything;  
"*owner*" of a animal includes a person who possesses or harbours a animal, and the terms "owns" and "owned" have a corresponding meaning;

"*at large*" or "*running at large*" means off the premises of the owner and not muzzled or under the control of any person;

"*reserve*" means the Penticton Indian Reserves No. 1, No 2 and 3A.

"*vicious dog*" includes

- (a) any dog that demonstrates any ferocious, vicious, or aggressive behaviour;
- (b) any dog that an animal control officer, upon reasonable and probable grounds, believes to be a vicious dog;
- (c) any dog which has been the cause of a prosecution under this by-law within the previous six months where a conviction against anybody had been entered concerning that specific dog;
- (d) any dog which has bitten another animal or human without provocation.

### ***APPLICATION***

3. This by-law applies to all owners of domestic animals residing or visiting on the Penticton Indian Reserves No. 1 and 3A.

## **PART II - ADMINISTRATION**

### ***ANIMAL CONTROL OFFICER***

4. (1) The Council may appoint, by band council resolution, an animal control officer to provide for the administration and enforcement of this by-law and more specifically to receive registrations and to issue identification tags under this by-law.

(2) The Council may, in the band council resolution, provide for reasonable remuneration to be paid to the animal control officer.

### ***REGISTRATION AND IDENTIFICATION OF ANIMALS***

5. (1) Every person keeping one or more dogs, or other animals on the reserve shall register and have an identification tag placed around the neck of each animal.

(2) The application for registration and identification tag shall be filed with the animal control officer and it will include:

- (a) the applicant's name;

- (b) the applicant's address or lot number;
- (c) a description of the dog or other animal sought to be registered, including age, sex, name and breed if known;
- (d) the number of animals in the household;
- (e) a record that the animal is immunized against rabies, noting the date of such immunization, the name of the person immunizing the animal, including the manufacturer's name of the vaccine and its batch number; and
- (f) any other information deemed by the animal control officer to be necessary for the proper administration of the by-law.

6. The charge for registration and identification tags shall be \$ 15.00 dollars per year.

7. The animal control officer shall issue the licence tag upon registration and payment of the annual fee and, if necessary, proof that the animal has been immunized against rabies.

8. The licence tag shall be securely attached to the collar or harness of the animal at all times.

9. The registration and identification tag will be valid for one full year from the date of issuance.

#### ***IMMUNIZATION OF ANIMALS***

10. All animals on the reserve must be immunized in accordance with generally accepted veterinary standards.

11. The owner of any animal exposed to rabies shall, on demand by the band council, surrender such animal to the band council to be held by the animal control officer in quarantine for a period of 14 days and such animal shall not be released from such quarantine without the written permission of the medical officer of health.

12. Upon demand of the band council, the owner of any animal shall forthwith surrender to the animal control officer any animal which has bitten any person or which has been exposed to rabies to be held in quarantine at the discretion of the medical health officer.

13. Any animal found to be infected with rabies shall be destroyed by its owner or by the animal control officer at the owner's expense.

***LIMITATION ON ANIMALS PER DWELLING***

14. (1) No more than three (3) domestic animals shall be kept, harboured or possessed in any dwelling;
- (2) The provisions of subsection (15)(1) shall not apply to dog or cat litters, whereby the pups or kittens are under four (4) months of age.

**GENERAL PROHIBITIONS**

15. (1) Subject to subsection (2), every owner of a dog shall keep the dog safely tethered or penned up at all times.
- (2) A dog need not be tethered or penned up as provided in subsection 15(1) if the dog:
- (a) is held on a leash by a person capable of restraining the dog's movements;
  - (b) is being used by a person for the purpose of hunting; or
  - (c) is being used by a person to work in a lawful manner with sheep or cattle; or
  - (d) is used by a visually impaired person as a guide dog.
- (3) No owner shall allow a female animal in heat to remain in any public place unless the animal is attached to a leash and is accompanied by and is under the observation and control of the owner or his agent.
- (4) The owner of an animal who fails to take all necessary measures to ensure that such dog is under control or supervision or in the possession of the owner at all times, upon any property on the reserve, is guilty of an offence.
- (5) The owner of a dog which causes damage to any property including moveable property, lawns, flower gardens, flower beds, bushes or plants, or other parts of property, is guilty of an offence.
- (6) The owner of a dog shall, when the dog is on public property or private property belonging to another person, immediately pick up and thereafter dispose of, any feces, vomit, or any other waste left by the dog on the said property.
16. No owner shall allow his/her dog to remain unfed or without water whereby it either amounts to cruelty or causes the dog to become a nuisance.
17. No person shall punish or abuse a dog in a manner, which is cruel or unnecessary.

18. No owner shall permit a dog to bark, yelp, and growl or otherwise annoy or disturb the peace of residents on the reserve.

***PROHIBITIONS WITHIN SPECIFIC AREAS OF THE RESERVE***

19. (1) The Council may at any time prohibit the keeping of animals within any area of the reserve.

(2) Notice of any prohibition made by council pursuant to subsection 19(1) shall be posted in the band office and after the date of the posting of such notice, no person shall keep or have an animal within the prohibited area.

(3) No person may establish, own or operate an establishment or facility for the boarding or treatment of animals within the limits of the reserve, without express written authorization to that effect from the band council, by way of band council resolution.

***Vicious Dogs***

20. Anyone owning a vicious dog or aggressive dog must post a clearly visible sign notifying the public.

21. At all times, a vicious dog must be muzzled and kept on a leash whenever it is in a public place.

22. On private property, a vicious dog shall be kept on a secure leash or in a restricted area, which shall be constructed so as to prevent any escape by the dog and/or to prevent the entry of children.

***Impounding and Seizure***

23. (1) No owner shall permit a dog him to be at large on the reserve;

(2) An animal found at large on the reserve may be impounded for not less than five (5) days and, after notifying the owner, may thereafter be humanely destroyed or otherwise disposed of, unless in the meantime such animal has been claimed by its owner and the costs incurred for the impounding of the animal have been paid.

24. (1) An animal control officer may seize a dog from any person whom he has reasonable cause to believe is violating or has violated or is about to violate any of the provisions of this by-law.

(2) If an animal is apprehended because it has inflicted an unprovoked attack upon an animal or human person, the animal control officer shall impound the animal for such period of time as specified by a veterinary surgeon.



(3) Subject to subsection (6), an animal control officer who has seized a dog pursuant to subsection (1) shall release the dog to its owner where:

- (a) the owner claims possession of the dog within five (5) days after the date of seizure, and;
- (b) the owner pays to the animal control officer all expenses incurred in securing, caring for and feeding the dog as listed in Schedule "A" hereto attached;
- (c) the owner has obtained the necessary registration identification tag from the animal control officer before the dog is released.

(4) Where a dog has not been reclaimed within five (5) days after seizure, pursuant to subsection (3), and notification has been given to the owner, the animal control officer may humanely destroy or dispose of the dog where a veterinary surgeon so directs and no damages or compensation may be recovered as a result of the destruction or disposal of such an animal.

(5) The animal control officer shall seek veterinary attention for an animal found to be diseased, whereby the owner has declined, failed or neglected to do so; in addition, any fee arising from the provision of such veterinary care shall be a charge against the owner of the animal.

(6) Whereby, a dog is seized which is injured or should be destroyed without delay for humane reasons or for reasons of health or safety to persons or animals, the animal control officer shall destroy the dog as soon after the seizure as the officer thinks fit without permitting any person to reclaim the animals and no damages or compensation may be recovered on account of such action.

(7) The band council shall forthwith make every reasonable effort to notify the owner of an animal which has been impounded.

(8) A written report of each such incident, as described in this section, shall be filed with the band council by the animal control officer.

***ANIMAL DESTROYED IF UNABLE TO SEIZE***

25. (1) Where the animal control officer, after reasonable effort, is unable to seize a dog that is running at large, contrary to the provisions of this by-law, the officer may destroy the dog.

(2) No damages or compensation may be recovered as a result of the destruction of a dog by the animal control officer pursuant to subsection (1).

***PROTECTION FROM VICIOUS DOGS***

**26. (1)** A person or animal control officer may kill, if necessary, a vicious dog which is running at large and is in the act of pursuing, attacking, injuring, damaging, killing or destroying:

- (a) a person;
- (b) another dog that is tethered;
- (c) a food cache, harness or other equipment; or
- (d) domestic livestock.

**(2)** A person or animal control officer who must kill a vicious dog, pursuant to section 26(1), shall immediately report the incident to the Band Administration or animal control officer and notify the dogs' owner.

**(3)** No damages or compensation may be recovered as a result of killing a dog by a person or animal control officer who is required to do so pursuant to section 26(1).

**PENALTY**

**27.** Every person who contravenes any of the provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000.00 or to imprisonment for a term of a term which does not exceed 30 days, or to both a fine and imprisonment.

Repeal

*(The following section is to be incorporated into this by-law only if you already have a by-law regulating the care and control of animals in place for your community that you wish to repeal.)*


28. By-law number 2007 - 03 enacted on the 20<sup>th</sup> day of March, 2007, and being a By-law to regulate the care and control of animals on the reserve, be and the same is hereby repealed.

**THIS BY-LAW IS HEREBY** made at a duly convened meeting of the Council of the Penticton Indian Band this 20<sup>th</sup> day of March, 2007.

Voting in favour of the by-law are the following members of the Council:


  
\_\_\_\_\_  
(Councillor Chad Eneas)

  
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(Councillor Jonathan Kruger)

  
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(Councillor K. Joan Gabriel)

  
\_\_\_\_\_  
(Councillor Naomi Gabriel)

  
\_\_\_\_\_  
(Councillor Kristine Jack)

  
\_\_\_\_\_  
(Councillor Timmothy Lezard)

  
\_\_\_\_\_  
(Councillor Anna Lizotte)

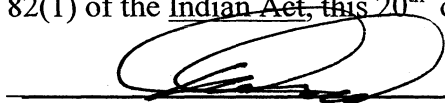
\_\_\_\_\_  
(Councillor Inez Pierre)

being the majority of those members of the Council of the Penticton Indian Band present at the aforesaid meeting of the Council.

The quorum of the Council is 5 members.

Number of members of the Council present at the meeting: 8.

I, Stewart Phillip Grand Chief/Councillor of the Band, do hereby certify that a true copy of the foregoing by-law was **mailed** to the Minister of Indian Affairs and Northern Development at the Ottawa office of the department pursuant to subsection 82(1) of the Indian Act, this 20<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
(Witness)

  
\_\_\_\_\_  
(Grand Chief/Councillor Stewart Phillip)